



August 27, 2004

Betty Foster, Director
Procurement Services
University of Arkansas for Medical Sciences
4301 West Markham
Little Rock, AR 72205-7199

Re: Advisory Opinion #483-04-13

Dear Ms. Foster:

This letter is in response to your August 11, 2004 request for an advisory opinion in accordance with § 19-11-715(b) of the Arkansas Code Annotated of 1987. Your request for an advisory opinion is based on the following facts:

- a) Scott Williams, a former UAMS employee, who worked as an application development specialist in Campus Operations terminated his employment in April, 2004.
- b) He started a bottled water business and has one employee/partner, a Vice President.
- c) Mr. Williams has e-mailed UAMS departments soliciting business.
- d) You are requesting an advisory opinion to determine whether Mr. Williams' actions are in violation of the Ethics in Public Contracting Law and under what conditions he may/may not conduct business with UAMS.

Arkansas Code Annotated § 19-11-709 **Restrictions on Employment of Present and Former Employees** Subsection (c)(2) says that "It shall be a breach of ethical standards for a partner of a former employee knowingly to act as a principal or as an agent for anyone other than the state where such former employee is barred under Subsection (b) of this section." Subsection (b)(1) and (2) refer to prohibitions of the former employee if the solicitation involves "matters connected with their former duties" or matters for which they were "officially responsible". Clearly, his former job title did not involve procurement of bottled water and it is not known whether his Vice President is a partner or an employee. The statute goes on to say at §19-11-709(d) that Mr. Williams (himself) is prohibited for one year from personally selling to the state. The definition of "sell" is found at (d)(2), "signing a bid, proposal, or contract; negotiating a contract; contacting any employee for the purpose of obtaining, negotiating, or discussing

changes in specifications, price, cost allowances, or other terms of a contract; settling disputes concerning performance of a contract; or any other liaison activity with a view toward the ultimate consummation of a sale although the actual contract therefore is subsequently negotiated by another person.”

Accordingly, until April, 2005, Mr. Williams may not personally “sell” (as defined by the statute) any bottled water to any state agency. However, the statutes do not prohibit him from owning a business where his employees, or a partner, solicit such sales with the state. In addition, Mr. Williams may have been in technical violation of the statute when he e-mailed the departments soliciting sales.

This advisory opinion is issued in accordance with Arkansas code Annotated §19-11-715(b), and compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of Act 483 of 1979.

Sincerely,

Richard A. Weiss
Director